

Meeting of 1997-6-24 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JUNE 24, 1997 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Charles P. Beller, Also Present:
Mayor Pro Tem, Presiding Gilbert Schumpert, City Manager
Felix Cruz, City Attorney
Brenda Smith, City Clerk

The meeting was called to order with Invocation by Rev. Jerry Smith, Victory Family Worship, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall bulletin board as required by State law.

ROLL CALL

PRESENT: Jody Maples, Ward One
Richard Williams, Ward Two
Jeff Sadler, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Charles Beller, Ward Six
Carol Green, Ward Seven
Randy Warren, Ward Eight

ABSENT: Mayor Marley.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL SPECIAL MEETINGS OF JUNE 3 AND 5, AND REGULAR MEETING OF JUNE 10, 1997.

MOVED by Shanklin, SECOND by Green, to approve Minutes as submitted. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

PRESENTATION OF FIREFIGHTER OF THE YEAR AWARD TO CPT BART HADLEY

Don Barrington, Fire Chief, said Veterans of Foreign Wars Post 5263 selected CPT Bart Hadley as Firefighter of the Year for 1997. CPT Hadley was recognized as being a 15 year veteran of the Department who had participated in the Fill The Boot MDA Campaign; United Way Campaign; LFD Coop Program; Cancer Week; Toys for Tots; March of Dimes; loaned executive for United Way; recipient of Community Service Award; and being active in recruiting for the Department. Hadley has previously received the Firefighter of the Year Award in 1983-84, and Firefighter of the Month twice. He is a student at Cameron, little league coach, and umpire for various sporting events.

Barrington said CPT Hadley represents what he would like to see in a member of the Department and that he appreciated his dedication and conscientious work. Barrington said CPT Hadley was acting as a Deputy Chief during the wind storm last year, during which time the communications temporarily went down. CPT Hadley went to the Communications Center and dispatched fire units in a calm and reassuring manner, taking control of the situation. Barrington said those efforts resulted in the Departments nomination of CPT Hadley for this award.

Beller read the Certificate of Recognition from VFW 5263 and congratulated CPT Hadley. He said CPT Hadleys parents are present and recognized their volunteer efforts in the community through the years.

CPT Hadley thanked his family for their support.

AUDIENCE PARTICIPATION: None.

UNFINISHED BUSINESS: NONE.

BUSINESS ITEMS:

1. Hold a public hearing and consider an appeal of the decision of the Lawton Metropolitan Area Planning Commission to allow an oil change shop as a Use Permitted on Review in a C-1 (Local Commercial District) zoning classification at 2111-2115 West Gore Boulevard. EXHIBITS: LMAPC MINUTES; LOCATION MAP; SITE PLAN; LETTERS OF APPEAL; MEMORANDUM FROM TRAFFIC ENGINEER; MEMORANDUM FROM TRANSPORTATION PLANNER II. (PETITION ON FILE IN CITY CLERKS OFFICE)

Bob Bigham, City Planner, said the initiators are Francis Hankins, Gladys Greenwood, and Joe and Nancy Skrdle. The LMAPC on May 14, 1997, held a public hearing and granted approval of the Use Permitted on Review to operate an oil change shop in a C-1 district at this address. Notice was published for that meeting. Application to operate the oil change shop was filed by Parker Lube, Inc., Roma Gilespeie and Gene Dodson. This property was zoned C-1 on June 10 by Council, after recommendation for such approval by LMAPC.

Bigham said in accordance with Section 18-113A6, three property owners within the 300 foot area appealed the decision of the LMAPC. Proper notice was given, and courtesy notice was given to property owners within 300 feet. He said one of the grounds for the appeal was traffic congestion along this segment of Gore Boulevard; additional traffic information was provided in the packet. Bigham said a petition was on file in the City Clerks Office containing 96 signatures in opposition to the UPOR. A call was received today from Mr. Larry Hargett, 1923 W Gore, stating he is not opposed to granting the UPOR for the oil change shop.

Beller asked when the original zoning was approved to C-1, were the residents asking for the zoning approval aware of what was going into this area at the time the rezoning was requested. Bigham said yes, and they stated their position at the LMAPC that they were in favor of the rezoning but were opposed to the UPOR.

PUBLIC HEARING OPENED.

Gladys Greenwood, 2117 W Gore Boulevard, said she had lived there since 1929 and had seen traffic increase over the years and the town grow up around her. She said the proposal is to put an oil change shop next door to her house, with a six foot wooden fence to be placed to the east of her house. Greenwood said there is already an eight foot wooden fence on the west side of her house, and felt this would greatly devalue her property.

Greenwood said Mr. Parker said he had offered her \$80,000, and he did, but there were conditions attached that she could not go with. She said there is so much traffic on Gore, that the business would be a detriment and that this is not needed in this part of town. Greenwood said she is 85 years old, has lived in her house 49 years, and was not interested in moving.

Greenwood said Gore is a thoroughfare for all emergency vehicles, which cannot get through at times due to traffic being backed up. She said you cannot get in and out of driveways now and did not know what it would be like if a business were put in. Greenwood asked that the appeal be upheld.

Kelly Harris, 1914 Arlington, said he lives around the corner from the proposed oil change shop site. He said much of Gore has already been developed as business, and in the future, essentially all of it will likely be so developed. Harris said he lives across the alley from several businesses, one being a child care center which brings a lot of cars, kids, and a couple of buses daily and the children playing outside during the day creating noise. He said the extra vehicular traffic is not that annoying, and these businesses have similar hours as those proposed by Mr. Parker for the oil change shop.

Harris said he had known Mr. Parker and his family for several years, attended church with them, and that he had seen the way his shops were operated. He said the shops are always very clean, loitering after hours is not allowed, and the new business would bring seven new jobs to the community. Harris said the LMAPC had studied this and approved the UPOR. He said he supported Mr. Parkers efforts to strengthen the economy and urged Council to do the same.

Marcell Corrales said she is the daughter of Gladys Greenwood. She said she was fearful of the high board fences being on either side of her mothers property; there is a four foot chain link fence across the alley. Corrales said there is quite a lot of activity in the alley during all hours of the night and day, with strange looking characters wandering up and down. She said she was fearful that her mothers property would be made so private that it would be a temptation for someone to come into the back yard and damage the property or break into the house because no one would be able to see them from any direction. Corrales said she did not like the idea of this proposal.

Charles Wright, Design Associates, Lawton, said he had done two oil change shops for Mr. Parker in the past and had previously presented a packet to Council. He said there will be no traffic backing into Gore, which is the case now with the residents. The oil change shop would allow traffic to pull out and be able to see and would not create a back up.

Wright said C-1 zoning allows for many uses that would create much more traffic than this use, which is a Use Permitted on Review. He said C-1 permits a grocery store, such as a 7-11 that would be open 24 hours a day; this business will be open eight hours a day, six days a week and closed on Sunday.

Wright said he understood the fence on both sides and the back was required by City Code for screening. He said if the residents do not want that fence, they would not put it in. Wright said they would normally go to the 25 foot line and taper the fence down to where it would not be blocking traffic in any way, but the fence can be worked out and Mr. Parker would be willing to do anything that the citizens of the area want to do. He said they had heard there was opposition to having

traffic in the alley, so their design shows a fence going down the alley with no openings so there would be no traffic in the alley or deliveries from the alley but all the traffic would be in and out on Gore. Wright said the property is 165 feet wide and there is a very lax use of the property; many other uses could go in that are allowable in C-1 that would create much more traffic and a much more dense use of the property than is being proposed.

Wright said the average traffic count for two similar businesses in Lawton owned by Mr. Parker is five cars per hour. He said people are not backed up around the block to use an oil change shop. Wright said there is not a particular time of the day when a lot of traffic hits.

Purcell asked if there is a City requirement for the fence between the oil change shop and Mrs. Greenwoods house. Wright said there is a City requirement when business is beside or backs up to a residential property with commercial, the Code requires a minimum six foot screening fence. Wright said if the neighbors do not want it, they would do what the neighbors wanted. Purcell asked Bigham if that was correct. Bigham said the Code requires a screening fence when the property in question abuts a residential district; both properties east and west of this are zoned C-1, so the only screening requirement would be on the north side abutting the alley, which is a residential district.

Wright said there will be a lot of open space, and pictures of businesses Mr. Parker currently operate show no junk cars or debris; there will be better visibility with the business than currently exists with the trees and shrubs.

Maples asked if there was a double line on Gore that would prevent traffic going east from turning into this location. Wright said there is a turning lane provided in this area.

Wright said they had measured the existing houses in relation to the property lines. He said the houses are sitting back approximately 20 feet from the property line; the business will be 35 feet back from the property line, or well behind the houses that would be on both sides.

Nettie Francis Hankins, 7704 Stonegate, distributed photographs to Council for review. She said she is not opposed to progress and has learned that both Linda and Gary Parker have a number of friends who really respect them. Hankins said she had not met Mr. Parker but had met Mrs. Parker who was very obliging to their discussion.

Hankins said she had submitted a letter requesting denial of the oil change shop to the City Clerk and that copies had been provided to Council. She said she had also asked that each Council member be given a copy of the petitions containing 348 names, although it was mentioned previously there were 97, but there are actually 348 names on that petition of persons who are opposed to the lube shop being located on West Gore.

Hankins said when they were approached by the real estate broker on this, she was asked they wanted the property they own at 2107 and 2109 Gore to be zoned for business; she was told that if everyone on the block all went in at the same time that it would be less money for everyone and they could share the cost. Hankins said she was told to write a letter to Mr. Gary Parker at the City Hall, and that she did not write that letter but assumed that Mr. Parker was connected with the City Hall. She said Mr. Parkers son in-law, Mr. Stonehocker, an attorney from Oklahoma City, came to their home and asked them to sign a statement that they would like the property to be commercial and they did that, but they did not know at that time that the thing they were signing was for a Parker Oil and Lube to be located there.

Hankins said there had been injuries on Gore Boulevard, and minor injuries that have not been reported to the police. She said she was concerned for Mrs. Greenwood being between two six foot board fences. Hankins said Arbys has access on both Gore and Sheridan Road. She said the site plan for the lube shop shows access points, but does not indicate width of those turn bays. Hankins said the people who live in her houses use the back entrance and park there because it is impossible to get back out on Gore from the driveway.

Hankins said many Cameron students use Gore, as well as school busses, and signs on the interstate point traffic for the hospital and Cameron down Gore; Cameron may be getting a new civic center, which would increase traffic. She said the Cameron football stadium is used a lot. The estimate is 31,000 vehicles travel down Gore daily, many being large trucks or moving vans. This is a main artery for emergency vehicles, especially those going to Memorial Hospital. She said many businesses on the other side of Gore have access to side streets, but the lube shop would have access only to Gore. Hankins said she was not opposed to the lube shop but was opposed to it being in such a crowded area that would be detrimental to the traffic. She said a business in this area should be on the back of the lot with ample parking in front, such as Rays Pharmacy or Raulstons Furniture, and she would be more interested in selling her property for a business like that.

Hankins said those coming to Lawton thinking of putting in industry should be able to see this as an attractive area. She said one statement was producing more noise, odor, vibration, blast of traffic, and it seems this would produce an odor and a truck would have to deliver oil and some method would be needed to dispose of the used oil. Hankins said there would be some noise generated from the work being done.

Shanklin said he had agreed to not support the oil change shop and would stay with that, but that he had lived at #5 NW 22nd in 1952-53 when attending Cameron, and traffic was backed up then at church hour, but now it is a four lane road. He said he did not feel someone else should be able to tell someone what to put on their property. Shanklin said on Mrs. Greenwoods problem, they may put the six foot fence behind her property if that would be an accommodation. He said he would support the appeal but did not know that anyone had been convinced to agree with that.

Purcell said when Council considered the rezoning and everyone was in support, he remembered Hankins saying she did not want the Use Permitted on Review but did want the C-1. He said there are many uses in C-1 that appear to be worse than this proposal and cause much more problem with traffic, such as barber shops and beauty shops. Purcell said there is a laundry mat across the street, which would generate traffic, but no matter what is built in this commercial zone, it will increase traffic. He asked Hankins to explain why we do not want the lube shop because of traffic but we want the C-1 when all the other things could go in there that would cause as much, if not more, traffic.

Hankins said she was in favor of C-1 mainly due to the others who lived on the block who were in favor and wanted to sell their property. She said she uses her properties as rentals, which produce a good income, and probably will remain as such. Hankins said she was actually opposed but did not want to go against her neighbors because she did not live there. She said she thought it should be rezoned and that she had filed the appeal and paid the \$50 fee to have this hearing. Hankins said she received a call last night and as soon as people knew the whole block was commercial, there was interest in buying the whole block from Mrs. Greenwoods down to the corner at 2101, and wanted to put in a professional building for doctor or lawyer offices and put it on the back of the property so there would be ample parking in front and have an exit on the corner near Morford Drive. She said the lube shops look nice from the front, but there are no businesses on either side of lube shops.

Beller said the obvious hope was to sell the property as a unit, which would bring more money, but it would also bring traffic.

Gary Parker said he wanted to build the oil change shop, and he and his wife had lived in Lawton for 30 years and put in six businesses and all are operating and are attractive, are clean and there are no problems. He said one mile down that road, there is an oil shop operating on Gore, operating well with no problems in the neighborhood; it did not increase the traffic and that his would not either, with this being one of the best things that could be put in to not increase traffic. Parker said the houses there now all have 12 foot drives and they back out onto Gore, which is a more likely situation to cause an accident than having an oil change shop on 165 foot frontage with 35 and 12 feet drives. He said traffic would not be backing out onto Gore.

Parker said they average five cars per hour, although there could be more on Saturday, but cars would never be backed up into the road. He said he felt it was a myth that these shops were offensive. Parker said he owns an oil shop on Cache Road, which has a Taco Bell next door, and if there was anything offensive or an odor, it would affect them. He said further out on Cache Road, next door is a Wendys, with a small lot in between, and there is not a problem.

Purcell said Mrs. Greenwood was concerned about being boxed in by two fences. He asked Parker if Mrs. Greenwood did not want a fence between the shop and her house, he would assume Parker would not be opposed to not putting the fence in. Parker said he would not be opposed at all and wanted to get along with the neighbors; if there is anything they can work out, he would be more than willing to. Purcell said since the money would be saved from putting a fence along the west side of the building that maybe the fence could go behind Mrs. Greenwoods house, even though that is not Mr. Parkers responsibility. Parker said he would not be opposed at all.

Cruz said under the City Code, Use Permitted on Review may be granted by the Planning Commission, subject to review by Council. He said the Planning Commission may impose additional restrictions on the use of the property and asked if the Planning Commission imposed any additional restriction such as putting up a fence. Bigham said no.
PUBLIC HEARING CLOSED.

Purcell said he understood this was a difficult situation, but a group of people asked that this be rezoned and that was done. He said Council is now asked to circumvent that, and that was a problem. Purcell said he thought the fencing issue for Mrs. Greenwood could be worked out.

MOVED by Purcell, SECOND by Green, to deny the appeal and affirm the decision of the Planning Commission granting the Use Permitted on Review.

Green said she had planned to vote no but was impressed by the photographs of the other oil change shops.

VOTE ON MOTION: AYE: Purcell, Beller, Green, Warren, Maples, Williams. NAY: Sadler, Shanklin. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Charles Stiles asked to speak and Council agreed to receive comment. Beller told Stiles Council had discussed the issue he was interested in previously, had asked Stiles if he was agreeable to the \$1.50 fee and he said yes. Stiles said he did not recall that. Beller said he recalled it distinctly because he asked the question. Stiles said if he did, it was due to his hearing disability and did not agree to that \$1.50.

Stiles said all the other licenses were adjusted to 53% and asked that the \$1.50 be 53% also. He said it was his understanding that it would be less than \$1.50 and if he agreed to anything else it was a result of his hearing problem. Beller asked if Council desired that the item be returned to the agenda at the next meeting. Shanklin said his understanding was that Stiles may not have agreed, but Council had not asked him to agree either. Shanklin said the fee

had to be something, and various amounts were discussed, and \$1.50 was approved by Council. Stiles said it is not fair for it to be \$1.50 because the others are 53%.

Joe Hammond, North of Lawton, asked that the deadline for vending licenses be changed to coincide with the Oklahoma Tax Commission licensing date of September 1 to avoid confusion. He said he needed to know what the fine would be for not complying with the licensing. Schumpert said staff was working on bringing this to a single time of the year with a relationship to the State.

2. Hold a public hearing and adopt a resolution declaring the main structure and storage shed at 1806 SW Douglas Avenue to be dilapidated and detrimental to the health and safety of the community; authorize the expenditure of City Council Contingency Funds, if necessary, to demolish these structures. EXHIBITS: RESOLUTION NO. 97-79.

Dan Tucker, Building Development Director, presented a video of the property. He said a complaint was received December 23, 1996; property is a vacant, single family residence with a dilapidated storage structure on the rear. First notice was sent to the property owner on December 26, 1996; second notice was sent January 17, 1997. Property owner is an out of state resident and no response has been received from him. The structure is open and being used by transients and a number of persons in the neighborhood, and according to the neighbors, they believe there are illicit and illegal activities being conducted there. The owner was provided a list of deficiencies. Property is located in the vicinity of the Dunbar School Project, and needs to be removed.

PUBLIC HEARING OPENED. No one appeared to speak.
PUBLIC HEARING CLOSED.

MOVED by Green, SECOND by Shanklin, to adopt Resolution No. 97-79 declaring the structure at 1806 Douglas as dilapidated and have it torn down with funding from Council Contingency funds. AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-79

A RESOLUTION DETERMINING CERTAIN STRUCTURES TO BE DILAPIDATED AND DETRIMENTAL TO THE HEALTH, BENEFIT, AND WELFARE OF THE COMMUNITY, AND ORDERING THE DESTRUCTION AND REMOVAL OF SAID DILAPIDATED STRUCTURES.

3. Hold a public hearing and adopt a resolution declaring the mobile home structure at 2101 SW Douglas Avenue to be dilapidated and detrimental to the health and safety of the community; authorize the expenditure of City Council Contingency Funds, if necessary, to demolish this structure. EXHIBITS: RESOLUTION 97-__.

Schumpert said the property owner is always notified by certified mail, and in this case, the letter was returned undeliverable. He said we want to make sure proper notice is given and asked that the item be removed so a letter can be resubmitted.

Shanklin said having one or two of these properties at each meeting is not going to clean up Lawton. He suggested a special meeting be called to look at 20 or 30 of these and asked Tucker if he could get some together. Tucker said he had that many ready to bring to Council but that he would need a three to four week lead time to get a good notice to all the owners. Shanklin said there are 150 in his ward alone.

Purcell said Council received a copy of a letter from the Treasurers Office, and help is needed from the City Attorney and State officials. He said the City is taking care of abandoned properties as far as mowing, demolishing, etc., with the costs then being placed on the tax rolls. He said the County then takes the properties over and owes the City nothing, and he assumed that was according to State law, which would have to be changed for this process to improve. Purcell suggested the State Legislators be asked to change this; the County gets to sell the property, or whatever they do, and all the money the citizens of Lawton have spent is out the window and never recovered. He said that will happen more and more as these come up and Lawton will be stuck.

Beller said Item 3 is pulled and asked if there was consensus to hold a special meeting as Shanklin suggested. Consensus was to set a special meeting when staff can get notices out. Purcell asked if there was a consensus that the Council take a position regarding the State law on disposition of these properties so the funds are not lost. Cruz said the Association of Municipal Attorneys has made that proposal twice, and that he had drafted the proposed legislation personally which had gone through the process. Cruz said he provided copies of it to the local legislators last year, and that he would prepare a proposed amendment for the next legislative session if appropriate. Schumpert said it would be submitted to Council. Purcell asked that a resolution be included from the Council for submission. Beller said that would be returned to the agenda.

4. Consider approval of expenditure of City Council Contingency Funds in the approximate amount of \$3,012.80 for overlay of alley in 100 Block of Gore Boulevard to Arlington Avenue. EXHIBITS: STREET DIVISION MEMORANDUM.

Shanklin said he requested this item because of the tremendous amount of dust generated in this area, which is three blocks from City Hall. He said the alley is the City easement.

MOVED by Shanklin, SECOND by Green, to spend \$3,000 plus from Council Contingency to do the alley between Gore and Arlington in the 100 block.

Williams said there are a lot of alleys that are dirt or chat and that have dust. He said this alley did not appear to have a lot of potholes and asked how much traffic goes up and down that alley. Shanklin said it is due to the dust as opposed to the potholes; there is pawn shop to the east, a car lot down the street south, and a funeral home. Purcell asked if this is by Biancos Restaurant. Shanklin said it is one block south.

VOTE ON MOTION: AYE: Shanklin, Beller, Green, Warren, Sadler, Purcell. NAY: Williams. OUT: Maples. MOTION CARRIED.

5. Consider authorizing the expenditure of \$17,200.00 from 1995 Capital Improvements Program for asphalt overlay of 3rd Street and parking lot in Elmer Thomas Park. EXHIBITS: NONE.

Williams said he listened to Carles Sowers about three sessions ago chastise the Council for the sad and poor condition leading into Elmer Thomas Park. He said there are not funds to take care of things like this, and the Street Division bladed it to cover up the holes for the time being, but as soon as it rains, they will have to be back out there. Williams said this should not be considered as a particular ward interest, but the largest park in the community, and its main entrance. He said he did not know if it should come from the 1995 CIP, although that was the staff recommendation and he would follow that lead.

MOVED by Williams, SECOND by Shanklin, to authorize the expenditure of \$17,200 from the 1995 Capital Improvement Program for the asphalt overlay of 3rd Street and the parking lot at Elmer Thomas Park.

Shanklin asked if this is for labor also and Williams said the agenda item shows it is all for materials. Beller said the new Museum is coming on line, and the street is terrible.

VOTE ON MOTION: AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

6. Consider approving a ninety day Pilot Program for Once a Week Refuse Pick-up (City wide). EXHIBITS: PROPOSED REFUSE SCHEDULE; PERSONNEL REQUIREMENTS.

Beller said he thought during budget discussions this would be for a particular area but the item shows it to be City wide. Schumpert said selecting an area was discussed during budget, but in those discussions, it evolved into this recommendation for a 90 day pilot program with a decision to be made based upon that experience.

Jerry Ihler, Public Works/Engineering Director, said this was one of the departmental initiatives. The pilot program would begin the first week in August and continue through October. Residents currently receive Monday/Thursday or Tuesday/Friday pick up each week. Pilot program would be that on Monday/Tuesday, city wide, crews would pick up only yard waste; on Thursday/Friday, normal household trash would be picked up. Yard waste would be deposited in an area of the landfill where it could hopefully be used for cover material in the future. Fort Sill officials indicated today that they would not be able to take the yard waste at this time.

Ihler said three alternatives were provided as to what could happen at the end of the 90 day period; one alternative is during the winter months there would be once a week pick up, and the City is broken up into two areas now. During the winter months with alternative one, the City would be broken into four areas, and over a period of about three years, through attrition, which was emphasized, the number of sanitation workers would be reduced by five. Cost savings would be approximately \$60,000 per year; full time employees would be reduced by five but remaining workers would be supplemented by contract labor. Advantage would be the monetary savings and 20% reduction in landfill space during winter months.

Alternative two would be continuing twice a week trash pick up during winter months, but during the summer months, there would be once a week pick up of yard waste and once a week pick up of regular, household trash.

Alternative three would be that the City not accept yard waste at all. Dallas and McAlester currently do this and require the citizens to take it to the landfill or mulch it, which is what most of those citizens do.

Purcell said he thought a savings of \$500,000 had been mentioned at one time on once a week pick up. He said he thought the pilot program discussed during budget initiatives was projected to save about \$155,000, which seemed reasonable to try on a couple of routes so he supported that. Purcell said the information now shows a pilot program across the total City with total savings of \$60,000 per year; and Fort Sill will not take the grass clippings. He said he felt Council should just acknowledge that it was a good initiative, but should be a dead issue.

MOVED by Purcell, SECOND by Shanklin, to deny approval of the 90 day pilot program for once a week pick up.

Williams asked if previous calculations were found to be over confident. Ihler said he did not recall the \$500,000 amount, but on the \$150,000, the thought process was currently there are 13 three-man crews for residential areas, and the

consideration was dropping to two-man crews, which would be a reduction of 13 employees. Ihler said as that was examined in greater detail, there was concern for potential increase of workers comp claims with two-man crews; recommendation was to continue with the three-man crews.

Williams asked what was happening with Fort Sill. Ihler said his understanding was they would like to utilize Lawtons yard waste for their composting operation; however, they are having difficulty with their current operation from the standpoint of separation. The yard waste they are receiving now is not being separated real well, and the residents have not been good about having yard waste out one day and trash out the other day. The mixture of household waste and yard waste does not work for composting operations and is not acceptable to DEQ. Williams said if that is the situation at Fort Sill, where residents can be influenced, they are likely concerned with what they would get from the City.

Shanklin said he had thought about having an agenda item on the yard waste but would discuss it now. He said Council is usually asked to address this in the middle of the summer. Shanklin said a program should be developed next year as far as not picking up any grass clippings, or if it is done, it will be in a bag that will be so designated and people would pay for that service, but try to influence as many people as possible to do the mulching. He said if 60% of the waste stream for six to seven months of the year can be grass clippings, we do not need to handle that if it can be taken care of by mulching. Shanklin said if residents want to bag it once every three or four times, they could do that and be charged for it because there is a great inequity between those who put out 40 or 50 bags, and those who put out one. He said there is an opportunity to settle on something concrete between now and next spring as to how this will be done, and not wait until the budget session is coming up and it is forgotten about. Shanklin said someone should be brought in to inform us about the mulching process. He said he hoped staff would bring something during the fall where Council could address this, and pointed out that seminar will be held on composting and it may be that the grass clippings would be wanted material for such an operation. He said the composting would take \$6 million and the City does not have that.

Maples said the comments she had received was that service was being cut but not the costs being charged. She said there are four in her family and there was no way they could go on one day pick up without having an overload out there for the crews. Shanklin said other places do this and it works.

Warren said he hoped we could look into the co-composting again, and there may have been miscommunication between us and some of those who received RFPs as to their understanding of what we wanted. He said we cannot keep dumping grass at the landfill, because it costs too much money to be filled up with grass clippings. Warren said he did not think Lawton would have the \$6 million, but the County, ASCOG, or others may be interested in participating. Shanklin said it should be a unified approach.

Purcell said Vo Tech will hold a seminar on the economics of recycling and composting on September 11 at 9 a.m.

Williams said he hoped staff did not take a "no" on this issue to mean not ever. He said we should try to position the community to accept change and that he appreciated Ihler bringing this initiative and that they would return something that could be supported. Beller said he felt the bagging seemed to be the most viable option, and perhaps they could be sold at fire stations, or let a private carrier pick up yard waste, but that something needed to be looked at in this regard. Beller said those who put out 20 bags should pay for them.

Sadler said charging for the bags would be acceptable but they should be used for cover material and not thrown in the landfill. He said he did not think the changes proposed would be that big of a cut; the City has always picked up 100% of the garbage and would continue to do so. Sadler asked that this subject be looked at further for more alternatives.

VOTE ON MOTION: AYE: Green, Warren, Maples, Sadler, Purcell, Shanklin, Beller. NAY: Williams. MOTION CARRIED.

7. Hear reading of letter to Environmental Protection Agency concerning sanitary sewer system rehabilitation.
EXHIBITS: NONE.

Beller said the purpose of reading the letter is for public information, Shanklin brought it up and it is appropriate. Beller said Schumpert would review the high points of the letter due to its length and Shanklin said that was agreeable. Shanklin said he wanted everyone to know what we were up against and how staff had answered the EPA and DEQ, and how this \$60 million would be funded, as well as other infrastructure needs. Williams suggested the letter be published in the newspaper.

Schumpert provided review which is included verbatim as follows:

"The background on this is that we had a requirement under the consent order to submit to them a study of our sewer and under the sanitary sewer evaluation study we completed that, we completed the study and as part of that we submitted then to the United States Environmental Protection Agency and the State of Oklahoma Department of Environmental Quality, in that many of the activities that EPA is handling will at a point in time be transferred to DEQ, which is state; at this point in time, EPA is still maintaining control of this. Both parties sent then back to us a letter addressing some of their observations and concerns and our approach to responding to that was to write to EPA and then provide a copy of our response to EPA to DEQ and then request after they have had an opportunity to review our additional submission to request that we have a face to face meeting and discuss what we want to do.

The areas that we addressed in our letter were the rehabilitation scheduling rationale, why did we intend to do the rehabilitation in the manner in which we did. The benefits from sub-basin rehabilitation, private sector rehabilitation, rehabilitation expansion and funding. Under the rehabilitation scheduling rationale, what we basically told them is that we have looked at our sub-basins and determined that where the majority of the problem is or the most chronic problem and based on the percentage of that problem then we proposed a schedule. Our schedule was all of the Squaw Basin rehabilitation work be completed by 2003, which is six years, and all the Squaw Basin expansion/upgrade work relating to overflows be completed by 2007, which is ten years. The next one was Squaw Basin improvements, complete, or with that action then 70% of our chronic overflows would be eliminated.

Next would be all Wolf Creek Basin rehabilitation and expansion, upgrade, improvements, and that would be completed by 2009, or 12 years from now. With both of these now, Squaw Creek Basin and Wolf Creek Basin, improvements we would have 98% of existing chronic overflows eliminated. Then by that time we would have about 157,000 linear feet or 82% of the main line rehabilitation work done, we would have 1,171 of our manholes rehabilitated and then the remaining work after 2009 would address the defects in the Cache Creek Basin with additional expansion, upgrade to the Wolf Creek Basin, and were saying we would complete that by the year 2020.

What we indicated is the benefits from doing a sub-basin approach to this is based on the study of that and of what we found in the SSES and that's the reason we proposed to do it that way. One of the questions both parties had as to how we intended to handle the private sector rehabilitation in that our survey indicated that up to, over 20% of the inflow volume came from defects in the private sector system. What we indicated there was in addition to educating the public as to the necessity of insuring that they had a service line and connection that were defective and they needed to maintain it in a proper manner, that if they chose not to take that action, then the City would, as the last, drastic, I guess the more drastic step, final step, if nothing else got their attention and caused them to fix their lines is that we would have the necessary regulations in place to shut off their water. If you shut off the water, then normally you don't have any sewage flowing into the sewer.

The other question they had is the funding, how we would fund it, and what we indicated was that what our, that we had approved a cent and a quarter improvement sales tax to do some things at this point in time. We also would have applied to the Oklahoma Water Resources Board for State Revolving Funds. State Revolving Funds, the way those work is that you get a percentage of those, approximately 40% of those, at an interest free rate, so that would be our initial approach, hopefully our approach to fund this activity would be through those funds and then we would either pay those back through a sales tax after the current one runs out or we would increase utility fees. We attempted to indicate there should not be a concern on their part as to providing funding for the compliance.

We also indicated in the letter that we had begun a preventive maintenance program to clean and TV our waste collection system on a five year basis, in other words, we would look at or touch every sewer line in Lawton every five years. We, in order to do this, we had hired eleven additional people and had a budget of \$670,000 for next year. We had also issued a notice to proceed on construction of a 18 million gallon per day wastewater treatment plant, and certainly the overflows which we had been incurring in the past with the plant expansion would assist us in handling any excess flows during this period of time were taking to rehabilitate the system. We also told them that we had expended \$3.5 million out of the 95 CIP to address those identified problems that came out of the sanitary sewer evaluation where existing lines had deteriorated to such a point, and some of the manholes had deteriorated to such a point that they needed immediate repair.

And in summary of that, we basically had appropriated and/or spent about \$27 million in the last few years to insure compliance. Some of the rationale that we told them about our reason for approaching it in the manner that we are and phasing it, taking approximately 20 years to completely do the system was that first off there is only a certain amount of work that you can effectively supervise, manage, and insure gets accomplished in the manner it should be. Additionally, there is only so much pain, if you will, that a community can stand. There's only so much disruption, there's only so many sewer lines you can tear up at one time, there's only so many streets you can cut, and so many alleys that you can disrupt in a given period of time.

So that's what we provided to EPA and then that letter was forwarded also to DEQ. Additionally in DEQs, we indicated to them that we would, they had talked to us a little bit about a phased program, which is essentially what we outlined, and that we told them we were very interested in discussing that, and were also interested in discussing getting this moved from EPA to the Department of Environmental Quality. Our main rationale for that, quite frankly, is that these are individuals who are in the State of Oklahoma, who understand our concerns, and they understand the issues, they are closer to us, and we think that we can simply accomplish a common goal much more effectively with people who are in Oklahoma City than we can with people who in Washington, D.C. As I say, we have indicated if you have any questions about our responses, let us know. We've also indicated to EPA that what we would hope would happen next would be a face to face meeting (tape turned over) EPA is that with our 11 man crew and the expenditure of that funds of touching or seeing, reviewing and making modifications to our sewer lines, every one of them each five years, there is going to be a point out here where those activities intersect and quite candidly we don't think it would take that entire period of time to complete rehabilitation of our system, however, this is a conservative approach to it.

The other area that we have talked to them about that is of concern, and I won't speak for Mr. Ihler because he can certainly speak for himself, but is that we don't want to have our current, our maintenance crew or preventive maintenance crew to being working on lines which the rehabilitation crews would be working on. So that's a, there's a lot of coordination, extensive coordination has to occur to insure that we don't double work. I have been in a situation where I saw a building

have vinyl siding put on it one year and the next year the building was demolished. We don't need that kind of approach to our sewer lines and so these crews have to be coordinated and as I say, we believe that this is an effective program to accomplish what EPA wants so we are now awaiting their response so that we can certainly, some members of the Council would go to that meeting and members of the City staff."

Shanklin said Lawton is requesting 20 years. Schumpert said yes, we are saying it will take 20 years to have 100% elimination of any inflows. Shanklin said that involves \$3 million new dollars. Schumpert said the schedule shows approximately \$3 million per year to accomplish this for 20 years. Shanklin said to generate that \$3 million is to ask the taxpayer to consider when the sales tax goes off for Bar-S to keep a certain portion of that tax on to pay for the sewer; he asked if that is correct. Williams said not necessarily. Schumpert said at that point in time there would be two choices, one is, without regard to how much time we are given to do the rehabilitation work, there is the ability to go to OWRB and obtain a 20 year loan; information at the last meeting showed if that were to be paid back from the utility rates, it started at about \$1.80 per month and the highest point was about \$11 and then back down over that 20 year period. The other option would be to use 1/2 cent of any sales tax to cover this, assuming they would agree to the 20 year plan.

Williams said Wichita Falls was given ten years and asked how long they financed it for. Schumpert said there had been no conversation with them but they could be contacted.

Purcell said if this does not work out, there may be a Congressional option that could be pursued, and that he had spoken with persons who could help if required.

Shanklin said he would rather not put the amounts on the water bills because anything tied to the water bill is perceived as a water rate increase. Williams said it is an increase, but it is an increase that is justly put back at the point it needs to be. Williams said the community has, for the last 20 years, grown its infrastructure needs on a pay as you go system with sales tax, which is a way to do it, but another way is borrowing money through the OWRB at a very low net interest rate. Williams said some of these things would increase in cost during the upcoming 20 year time frame, and that he did not have a problem paying for this through the water bill. He said this would allow something to be done for other capital improvements that need to be addressed through a permanent one cent sales tax, if that is the wishes of the people, when the current CIP tax expires.

Williams said he thought it would be financed for 20 years regardless of how much time is granted for the work.

Purcell said a one cent increase could be sought when the current one cent capital improvement sales tax expires to cover the \$62 million either as pay as you go or to pay back the loan, and a portion could be designated for other capital improvements.

Shanklin agreed other capital improvements are needed and that he was trying to get away from raising water bills. Beller said people need to be aware these funds will be needed.

8. Consider an ordinance amending Chapter 22, Lawton City Code, 1995, eliminating the exemption from monthly water, sewer and refuse charges for unoccupied business, industrial, commercial and family dwelling units and establishing a vacancy discount for multi-unit accounts. EXHIBITS: ORDINANCE NO. 97-____; REPORT ON AVERAGE VACANCIES.

Steve Livingston, Finance Director, distributed changes suggested by the City Attorney to the proposed ordinance. He said this was brought before Council as an initiative because there are about 1,000 customers being personally dealt with each month, which causes traffic and problems. Livingston said this is not a revenue generating item, and it is hoped there will be no decrease in revenue as a result; staff has estimated the average vacancy rate in the City.

Livingston said this item uses the average vacancy for multi-family units for the last two years, and that number is 15%. He said an automatic 15% vacancy would be granted; large apartments will likely run that or less. Livingston said an individual home owner with an apartment would have a billing factor of two; the vacancy discount will be pro rated. If the rental unit is vacant two months of the year, the home owner will break even; if it is vacant more than that, this will cost the home owner money; if the units are rented the full 12 months, the home owner will make money since it is based on an average. He said mobile home parks are not included in the proposed ordinance since several are 80-95% vacant, and this would not be fair to them. Trailers can be counted when meters are read. Industrial users are not included; there are no industrial multi-account users. There are 18 to 20 commercial account holders with multi-units; two have filed vacancies in the last year. Commercial units are intensive water users and are not included in the vacancies since they have not filed, and the City should not encourage these types of units to be unmetered.

Livingston said this item eliminates all vacancies for single family units, and the person would call to terminate service instead of filing a vacancy.

Livingston said the City has a very high minimum rate; the reason for vacancies initially was because people could not discontinue service if you had 100 units and five were vacant. He said the certification system is on the honor system, people certify that units are vacant, and the charge is taken off.

Beller asked if there was a charge to terminate service to a single family residence. Livingston said not to terminate; to initiate service there is a set up fee of \$15. Beller asked if anything is paid on the vacancy certificates and Livingston said no. Beller said this would save 800 to 1,000 certificates being filed monthly. Livingston said that was the hope.

Beller asked if there was provision to waive any fees if a complex went to a higher vacancy, such as 50%. Livingston said that he and the City Manager had discussed cases where a unit is obviously unoccupiable, but at this point, nothing was included where we could inspect and say the unit is not occupied and not likely to be occupied, and check it annually. Livingston said there are large numbers of people who file vacancy after vacancy. Beller asked if they are legitimate. Livingston said yes, and one example is a person would say they are too old to maintain an apartment but do not want to give it up because their kids may someday sell the property and there would be two units, it has a revenue producing item there and they want to leave it as it is, so they file vacancies every month; that unit will probably not be occupied for a long time. Livingston said this has nothing for a long term situation.

Livingston said a person can split the water lines and service the unit; that is not easy or inexpensive in all cases. He said service can be discontinued by capping off a segment of line and it would be considered a storage building or something like that.

Purcell said the vacancy study is included showing an average of 15.3%. He asked if that is a weighted average of all the accounts or a strict average of the 63 billing factors. Livingston said that is the total number of available units; you take the billing factor of two, that is two units, times the number of accounts, and you have the 1,894 and 274 vacant and that is 14.5%; 274 divided by 1,894 units. Livingston said he bills all 1,894 units and gives credit for 274.

Purcell said the average shown is 15.3% and asked if that was weighted by the number of accounts, the number of units, or is it strictly an average of all the percentages in the percent vacant column. Livingston said it should be the average of 1,475 divided by 9,657. Purcell said it is averaged by the number of vacant units.

Purcell said everyone who has 88 units or more has a fairly low vacancy rate; someone with a billing factor of 10, his vacancy rate is 42.1%, but he will only get credit for 15% vacancy. Livingston said that is correct under the proposal. Purcell asked if there was a way, since you have the vacancy rates for the various billing factors, to crank in different vacancy rates for each billing factor. Livingston said he was sure there was a way. Purcell said that would seem to be more fair than having one, overall vacancy rate for the entire City.

Schumpert said once the 15% is put into effect, there is no ability to come back in 12 months and see what the vacancy rate actually was. He said the problem is if the 42% vacancy changed and they had 90% occupancy, there would be no way to change that from the 15%, so those people would be doing quite well. Schumpert said the average of those competing with each other and in all the billing factors is 15%, so there is some incentive in a person repairing and renting the property. He said staff does not have the ability to verify vacancies now, and that he did not know they were all 100% accurate.

Shanklin said he would not be able to vote, but the girls in the hall accommodate those who do not have 100 and 150 and 3% unoccupied rate; there are 3,000 of them who will really get a windfall. He said everyone knows the usage in an apartment should be 3,000 gallons; if 75,000 gallons are used and none of the units have laundry facilities, you know you have a leak, and there is a check and balance. He said if a person comes down and has 100 apartments, and says 25 are vacant, the bill is reduced \$30 times 25 approximately or \$750, but the usage is 330,000 gallons of water and the person would have to pay for the water even though it is excess water. Shanklin said whether the person lied or not, it is made up by the charge put on the water.

Shanklin said he has a conflict of interest and cannot vote. Cruz said under the conflict of interest rules, if there is a conflict of interest, the member would state there is a conflict and the member will not participate in the discussion and will not vote. Shanklin said if Council would declare a hearing, he would go to the podium and speak. Cruz said there is not a public hearing. Shanklin said Council can receive comment and that he wanted to speak, although he knew he could not vote, but that the whole story should be told.

Beller asked if the public housing authority has a 45% vacancy and if they would be included in this proposal. Livingston said they are included and that he tried not to single out different groups. Livingston said some of those having ten units show them using 10,000 to 12,000 gallons each and some apartment complexes with large vacancies have larger consumption.

Livingston said regarding the point brought up earlier, the first 3,000 gallons costs \$28.32; if you trade that for water and sewer at the gallon rate, the same 3,000 gallons costs about \$2 per thousand, so for every unit that is vacant, the bill is reduced by \$28.32, and then pay for the gallons used in the consumption part, so you are trading paying \$6 and taking off \$28.32. Shanklin said there is a tremendous difference in having 100 people on the meter versus one or two. Livingston said you will get credit for the 3,000 gallons if you pay the \$28.32; if it is vacant, we take the \$28.32 off and add that to the upper end of the consumption which is basically \$2 for water and sewer per thousand, so that is \$6, so you are trading \$28.32 for \$6.

Shanklin said what if you fibbed on 15,000 gallons, how would you pay. Livingston said for one water meter and one unit, the 15,000 gallons is still in the \$1.70 range and you stop paying sewer at 12,000 gallons. Livingston said vacancies are very valuable to the persons paying the bills.

Shanklin said there are 20 billing days; rents are due the first of the month; there is no way anyone can say they are 100% right. Livingston said the unit must be vacant from the 15th of the month to the 15th of the month, and if a unit goes vacant on the first and is vacant until the 30th, it is vacant a month, but it is occupied some time during the month on both

readings and under the Code, it is not qualified for a vacancy. Livingston said we do not ask and do accept the vacancy.

MOVED by Maples, to table the item.

Maples said there are too many areas that are not clear. Beller asked the date it would be reconsidered. Maples said the second meeting in July. Cruz asked if it should be brought back as is or if certain changes were requested. Maples said the points Shanklin brought up should be addressed, as well as the fact that rents are due on the first but vacancies are from the 15th to 15th.

SECOND by Sadler, to motion to table.

VOTE ON MOTION: AYE: Maples, Sadler, Green. NAY: Warren, Williams, Purcell, Beller. ABSTAIN: Shanklin. MOTION FAILED.

MOVED by Purcell, SECOND by Williams, to adopt Ordinance No. 97-31 amending Chapter 22, as amended by the latest information we have, waive reading of the ordinance, read the title only.

(Title read by Clerk): AN ORDINANCE RELATING TO UTILITIES, FEES, AND CHARGES, AMENDING SECTION 22-101 AND SECTION 22-113, LAWTON CITY CODE, 1995, ELIMINATING THE EXEMPTION FROM WATER, SEWER, AND REFUSE CHARGES AND FEES FOR UNOCCUPIED UNITS AND ESTABLISHING A VACANCY DISCOUNT FOR MULTI-UNIT USERS.

VOTE ON MOTION: AYE: Williams, Purcell. NAY: Maples, Sadler, Beller, Green, Warren. ABSTAIN: Shanklin. MOTION FAILED.

9. Consider a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, as amended, amending the units billed for multi-unit utility users. EXHIBITS: RESOLUTION NO. 97-____.

This item was not considered as Item 8 was not approved.

10. Consider adopting an ordinance establishing inspection fees on Public Works Improvements, providing for an effective date and declaring an emergency. EXHIBITS: ORDINANCE NO. 97-31.

Ihler said an initiative was to provide inspection fees relating to the cost for City inspectors to inspect streets, drainage, detention, sewer and any other improvement to be dedicated to the City. The ordinance establishes the method to set up the fee, and the resolution in Item 11 sets the fees.

MOVED by Green, SECOND by Shanklin, to adopt Ordinance No. 97-31, declare an emergency, waive the reading of the ordinance, read the title only.

(Title read by Clerk) ORDINANCE NO. 97-31

AN ORDINANCE RELATING TO ENGINEERING INSPECTION FEES AMENDING CHAPTER 10, LAWTON CITY CODE, 1995, AS AMENDED, BY ADDING A NEW ARTICLE TO PROVIDE FOR ENGINEERING INSPECTION FEES FOR PUBLIC WORKS IMPROVEMENT, PROVIDING FOR SEVERABILITY, CODIFICATION, DECLARING AN EMERGENCY AND SETTING AN EFFECTIVE DATE.

VOTE ON MOTION: AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

11. Consider adopting a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, setting inspection fees for Public Works Improvements and establishing an effective date. EXHIBITS: RESOLUTION NO. 97-80.

MOVED by Shanklin, SECOND by Purcell, to approve Resolution No. 97-80. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-80

A RESOLUTION AMENDING APPENDIX A, SCHEDULE OF FEES AND CHARGES, LAWTON CITY CODE, 1995, ESTABLISHING THE FEE FOR ENGINEERING FEE INSPECTION FEES AND ESTABLISHING AN EFFECTIVE DATE.

12. Consider rejecting bids for plumbing work at the police station. EXHIBITS: BID TABULATION.

Bill Adamson, Police Chief, said plumbing repairs were done recently on sewage in the jail section. He said after those

repairs were made, there were other leaks and it was determined that was coming from the fresh water supply system to the jail cells; 28 faucets and lavatories. Adamson said staff proceeded to go out for bids for those repairs; only vendor responded and the cost exceeded the amount anticipated. He said he was told it could not be brought for Council approval under the current law because an engineers estimate was needed for anything over \$7,500. Adamson said he was informed that he must request that the bid be rejected.

MOVED by Green, SECOND by Williams, to reject all bids for plumbing repair at the police station.

Maples asked if the next item would take care of the plumbing and Adamson said yes.

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Green, Warren, Williams, Sadler. NAY: None. ABSTAIN: Maples. MOTION CARRIED.

13. Consider declaring an emergency, waive competitive bidding requirement, authorize plumbing repairs at the police station, and award the bid as appropriate. EXHIBITS: NONE.

Shanklin asked if the City had any plumbers on staff. Schumpert said no, there are certified plumbing inspectors but no licensed plumbers. Shanklin asked if this would be put out for bid again. Schumpert said it was his understanding that we would contact businesses and request quotes. Cruz said Council can declare an emergency, and in anticipation of that happening and due to the emergency nature of the situation, the Purchasing Supervisor has already made contact with people. Schumpert said the Purchasing Supervisor has done this but Shanklin was asking about the process.

John Veal, Purchasing Supervisor, said he had contacted five vendors and only one vendor responded, and it was the same firm that submitted the bid in the first place. He said the other vendors declined to submit bids.

Shanklin said he wanted to know who they were because he wanted to ask them. He said he could not believe only one would respond with so many companies needing work. Veal wrote the names on a sheet of paper and handed it to Shanklin.

Purcell said the bid was just rejected; this item calls for non-competitive bids, which have been received, and only one was received. He asked if the bid was from the same vendor at \$17,700. Veal said yes. Purcell asked what had been accomplished. Cruz said this process complies with the ordinance which says you cannot award a public construction contract without an engineers estimate; we have overcome that by rejecting this bid. Cruz said if this is declared an emergency, the contract can then be awarded to the sole bidder tonight. Purcell asked if the reason the other bid could not be awarded was because there was not an engineers estimate. Cruz said yes.

Shanklin said the other competitors knew it would be over \$7,500 and did not respond. Purcell said they did not respond either time.

Maples said this problem has been going on for a long time and months ago we had a City employee injured slipping on this; an emergency was not declared at that time, but now because a mistake was made in not getting an engineering estimate, we want to declare it an emergency. She asked where the priorities are.

MOVED by Green, SECOND by Warren, to declare an emergency, waive the competitive bidding, authorizing the plumbing repair at the police station, award the contract to Pippin Plumbing for \$17,700.

Williams asked if this was the kind of request where you come and look it over and make a best guess judgment on what it needs and then give a bid, or did we actually identify the scope of work and how it should be performed and receive bids from that. Veal said we identified the scope of work and invited them to look at it. Williams asked about the other vendors who were called. Veal said they elected not to go look at it.

Purcell said we went out once with competitive bidding and got only one bidder; we went out a second time and got the same one bidder. He said if we go out again, we will get the same one bidder; they have had two chances.

VOTE ON MOTION: AYE: Beller, Green, Warren, Williams, Sadler, Purcell. NAY: Shanklin. ABSTAIN: Maples. MOTION CARRIED.

CONSENT AGENDA:

ITEM 14 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

15. Consider the following damage claims recommended for approval and consider passage of a resolution authorizing the City Attorney to file a friendly suit for the claim over \$400: Frederick R. and Patricia A. Milton; Frank and Marie Hetherington; and Tae Lee. EXHIBITS: LEGAL OPINIONS/RECOMMENDATIONS. (RESOLUTION NO. 97-81 on file in City Clerks Office). Milton: \$45.00; Hetherington: \$400.00.

(Title only) RESOLUTION NO. 97-81

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST TAE LEE IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF ONE THOUSAND, ELEVEN DOLLARS (\$1,011.00).

16. Consider issuing a revocable permit to S.E.A.s Glass Hat Manor Hall to continue to utilize a portion of the street right of way adjacent to 915 SW D Avenue for parking and maneuvering. EXHIBITS: SITE PLAN; REVOCABLE PERMIT. Action: Approve item.

17. Consider issuing a revocable permit to Mike Corrales to continue to utilize a portion of the alley in Block 51, Original Townsite Addition, for maneuvering. EXHIBITS: SITE PLAN; REVOCABLE PERMIT. Action: Approve item.

ITEM 18 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

19. Consider approving a resolution approving modifications and revisions to the City existing pay plan and declaring an effective date. EXHIBITS: RESOLUTION NO. 97-82.

(Title only) RESOLUTION NO. 97-82

A RESOLUTION APPROVING MODIFICATIONS AND REVISIONS TO THE CITY'S EXISTING GENERAL PAY PLAN; PROVIDING FOR LIMITATIONS; AND ESTABLISHING AN EFFECTIVE DATE. (July 1, 1997)

20. Consider approving changes in rates for the City employee health and dental plans and modifications to the benefit plans. EXHIBITS: NONE. Action: Approve increased rates and benefit changes for the employee health and dental plans effective July 1, 1997.

ITEM 21 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

22. Consider adopting a resolution authorizing the temporary closing of 4th Street from the west exit of the Library parking lot to C Avenue and B Avenue from 4th Street to 5th Street during the International Festival, September 24, 1997, through September 29, 1997. EXHIBITS: 1996 FESTIVAL LAYOUT; RESOLUTION 97-83.

(Title only) RESOLUTION NO. 97-83

A RESOLUTION AUTHORIZING THE TEMPORARY CLOSING OF A PORTION OF 4TH STREET FROM THE WEST EXIT OF THE LIBRARY PARKING LOT TO C AVENUE AND A PORTION OF B AVENUE FROM 4TH STREET TO 5TH STREET DURING THE PERIOD SEPTEMBER 24 THROUGH SEPTEMBER 29, 1997.

23. Consider awarding a construction contract for the "K" Avenue and NW 34th Street Sewerline Replacement Project 97-9 to Dobbs-Washita Construction, Inc. in the amount of \$196,582.00. EXHIBITS: BID TABULATION OF 6/10/97; TWO LOCATION MAPS. Action: Approve item.

24. Consider accepting the Wastewater Treatment Plant Storm Holding Basin Cleaning Project 96-10 as constructed by BJP Enterprises and placing the Maintenance Bond into effect. EXHIBITS: NONE. Action: Approve item.

25. Consider approving Change Order No. 1 assessing liquidated damages, accepting the NW 34th Street Emergency Sanitary Sewerline Project 97-6 as constructed by S.M. Burk Mechanical Contractors and placing the Maintenance Bond into effect. EXHIBITS: LOCATION MAP. Action: Approve item. The final contract amount is \$64,858, less 5 days liquidated damages at \$300 per day which equals (\$64,858-\$1,500) \$63,580.00.

26. Consider approval of a contract between the City and Comanche County for civil defense services. EXHIBITS: CONTRACT. Action: Approve item.

27. Consider approving an amendment to the agreement between the City and Co-Op Services, Inc., and authorize the Mayor and City Clerk to execute the Amendment. EXHIBITS: AMENDMENT NO. 3; LETTER FROM CO-OP SERVICES, INC. Action: Approve Amendment No. 3.

28. Consider approving an agreement with the Oklahoma Department of Corrections for assignment of inmates to the City. EXHIBITS: LETTER, LAWTON COMMUNITY CORRECTIONS CENTER DATED MAY 28, 1997; AGREEMENT. Action: Approve item.

29. Consider approving the proposed Cooperative Program and Memorandum Agreement between the Oklahoma Water Resources Board, the U.S. Geological Survey and the City of Lawton and authorizing the Mayor and City Clerk to execute the agreement. EXHIBITS: PROPOSED COOPERATIVE PROGRAM AND MEMORANDUM AGREEMENT. Action: Approve item.

30. Consider approving agreements for refuse disposal with the Town of Indianola, the Town of Cache, and Multiple Community Services Authority, and authorize the Mayor and City Clerk to execute the agreements. EXHIBITS: NONE. (On file-City Clerk) Action: Approve item.

31. Consider approving an agreement for euthanization services with the Town of Geronimo and the Town of Cache, and

authorize the Mayor and City Clerk to execute the agreements. EXHIBITS: NONE. (Agreements on file with City Clerk)
Action: Approve item.

32. Consider approving an agreement between the City of Lawton and Lawton Mobile Meals, Inc., for the purpose of operating the Mobile Meals Programs for Fiscal Year 1997-98, and authorize the Mayor and City Clerk to execute the agreement. EXHIBITS: NONE. (Agreement on file with City Clerk) Action: Approve item.

33. Consider a proposal from the Center for Creative Living Corporation for services to senior citizens for FY 1997-98, and enter into an agreement for services. EXHIBITS: CONTRACT RENEWAL REQUEST. (Agreement on file with City Clerk) Action: Approve item.

34. Consider approving annual agreements between the City and the following entities: Crime Stoppers of Lawton, Crime Stoppers/K-9, Oklahoma Department of Corrections, Comanche County Board of Commissioners (Juvenile Detention Center), Roadback, and J. Roy Dunning Childrens Shelter. EXHIBITS: NONE. (Agreements on file with City Clerk) Action: Approve item.

ITEM 35 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

36. Consider entering into a contract with Mr. and Mrs. Paul Loveless for fire protection outside the Lawton city limits, and authorize the Mayor and City Clerk to execute the contract. EXHIBITS: NONE. (Contract on file with City Clerk) Action: Approve item.

37. Consider entering into a contract with Mrs. Ingrid K. Davis for fire protection outside the Lawton city limits, and authorize the Mayor and City Clerk to execute the contract. EXHIBITS: NONE. (Contract on file with City Clerk) Action: Approve item.

ITEM 38 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

39. Consider extending contract for traffic controllers. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Extend contract with Pinkley Sales Company, Oklahoma City, OK, at same terms to 8/31/98.

40. Consider rejecting proposals for Fax-on-Demand. EXHIBITS: EXHIBITS: VENDORS MAILING LIST; BID TAB.; REC. Action: Reject proposals.

41. Consider awarding contract for agricultural farming tillage lease. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to Mark Gilbreath, Apache, OK, and authorize execution.

42. Consider awarding contract for metal collection storage cases. EXHIBITS: VENDORS MAILING LIST; BID TAB.; REC. Action: Award contract to Steel Fixture Mfg. Company, Topeka, KS, and authorize execution.

43. Consider awarding contract for root killer. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to Airrigation Engineering Co., Inc., Pleasanton, CA, and authorize execution.

44. Consider awarding contract for first aid supplies, equipment and service. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to Life & Safety Service, Oklahoma City, OK, and authorize execution.

45. Mayors Appointments. EXHIBITS: NONE.

Building Development Appeal Board:

Lionel C. Waugh, Term: 6/24/97 to 6/24/99

Human Rights & Relations Commission:

Vicente C. Nededog, Term: 6/24/97 to 9/30/99

46. Consider approval of payroll for the period of June 16 through June 29, 1997. EXHIBITS: NONE.

Shanklin asked for separate consideration of Item 35. Williams asked for separate consideration of Item 38. Green asked for separate consideration of Items 18 and 21. Beller said persons had asked to speak regarding the Sorge damage claim; Item 14 was considered separately.

MOVED by Shanklin, SECOND by Williams, to approve the Consent Agenda items as recommended with the exception of Items 14, 18, 21, 35 and 38. AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

14. Consider the following damage claim recommended for denial: Robert and Paula Griffith; Robert and Anna Ostyn; Frederick and Annie Frederick; Don McGee; and Hans and Christine Sorge. EXHIBITS: LEGAL

OPINIONS/RECOMMENDATIONS.

Cruz said the Sorge claim deals with the requirement of the code to build a facility with 2 x 8 boards, and instead 2 x 4 boards were used; claim is for reimbursement of the cost of the 2 x 4s. He said there is no fault or liability on the part of the City and recommended denial of the claim.

Beller asked Tucker to explain and asked if the people had come in with a drawing they had made. Tucker said he was not present during the original conversation but understood they had come in and applied for a permit to construct a carport, and at that time it was indicated on the permit that 2 x 4 rafters would be allowed to be used and the permit was approved on that basis. Tucker said the inspector found that 2 x 4 rafters had been used, but there were also 2 x 4 joists, the center beam that forms the base of the triangle, and it exceeded the distance. Tucker said the permit applicant came in and we discussed the fact that the joists were not on the original permit, but the rafters had been discussed, not joists, and if joists were going to cover an 18 span, that it would have to be a larger timber to meet the code because they were sagging.

Beller asked if the joists were shown on the drawing. Tucker said no, they did not bring a drawing of their own in, they came in and visited with the plans examiner and discussed what would need to be done; we did a drawing not showing how it was to be constructed, put down the language that 2 x 4 rafters would be used, and then the spacing for the vertical supports, the posts to hang it up. Tucker said joists were not mentioned.

Shanklin asked if they were spanning 24 feet. Tucker said he did not recall but knew it was in excess of 18 feet. Shanklin asked if they built the trusses on the job site or if they were built at a factory. Tucker said they were built on the job site.

Luina Aurilio said he was helping the people here to build the carport. He said they came in for the license to build the carport and talked to Mr. Parker and showed him what they wanted to do and how they were going to construct it, to include the gable and rafters. Aurilio said Mr. Parker gave them a diagram showing 2 x 4s and other items and that was exactly what they did and that they came here twice. He said the inspectors said it was no good and they had to use 2 x 12s. Aurilio said he spoke with Joe Mercado who said something was wrong. He said they had to take everything out and replace it with the other lumber and right now there is not adequate support. Aurilio said he thought the City owed them some money.

Beller said it was a misunderstanding. Aurilio said they came by here twice and asked Mr. Parker. Aurilio said he did not know why 2 x 12s would be required unless they were planning to build a house on top of it. Beller said the plans examiner clearly marked the portion of the sketch relating to the joists as void, and asked Tucker what happens in that case. Aurilio said if something is stamped void it means it is no good. Beller said if it is stamped void, you obviously have to make changes. Tucker said showing the base across the bottom of the triangle, that is the joist, and putting the cross members in, one of the common misconceptions is that webbing to hold the joist to the rafter holds the rafter up when in fact it is just the opposite; the rafter is holding the joist up and without that center beam, if it was just a peak and down to the poles, that is acceptable with 2 x 4s; it is when we put the joist on the bottom that we exceed the distance that the 2 x 4 will support.

Beller asked if it was 2 x 12s or 2 x 8s. Aurilio said 2 x 8s. Tucker said he was not aware of any discussion about 2 x 12s.

Mrs. Sorge said she and her husband saved for almost two years for the carport, and it could have been an honest mistake, but she was out \$224. Beller asked who made the mistake. Mrs. Sorge said the City. Beller asked Tucker if that was correct. Tucker said he did not know that we made the mistake but may have been part of the conversation and there was a misunderstanding in the conversation, and there had been subsequent conversations about what needed to be done.

Cruz said the building code requires certain standards and that is what the owners are required to perform. He said under the State law, the City is exempt from liability arising from any of the licensing powers. Cruz said based on the investigation, the City is not liable for the extra lumber or the lumber they bought but did not use; there is no liability to the City based on those exemptions.

Shanklin said if the people did not know how to build it, they should have got the right knowledge from someone to build it correctly. He said you cannot span that distance with 2 x 4s.

MOVED by Beller, to approve the \$224.12. MOTION DIED FOR LACK OF SECOND.

MOVED by Purcell, SECOND by Warren, to deny the Sorge claim. AYE: Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

MOVED by Green, SECOND by Williams, to deny all the other claims listed under Item 14. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

18. Consider approving a waiver of the application procedure of Council Policy No. 30, and authorize CDBG Program funding assistance to the Youth Force-Lawton volunteer housing project. EXHIBITS: REQUEST FINANCIAL SUPPORT; COUNCIL POLICY 30.

Green said the project will be July 13 through 18 with the Oklahoma Conference of United Methodist Churches. She said the citizens should know this is coming and about ten homes in the Lawton View area will be rehabilitated in this program.

Tom Aplin, Housing and Community Development, said a similar project was conducted last year where repair work was provided to ten homes. He said the purpose of the program is to provide a service to very low income homeowners who could not otherwise afford to fix their homes; the second objective is to give youth an opportunity to learn from the experience of helping others. Aplin said several places have been identified in Lawton View, however, the program is not restricted to Lawton View and members may submit names of persons needing this type of help.

MOVED by Green, SECOND by Purcell, to approve waiving the application procedure and authorize CDBG Program funding assistance in an amount not to exceed \$500.00 for the Youth Force - Lawton project for the purposes outlined. AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

21. Consider approving a contract with Theaterworks USA to present two performances of The Swiss Family Robinson to area students at McMahon Memorial Auditorium on October 15, 1997. EXHIBITS: THEATERWORKS USA FLYER. (AGREEMENT ON FILE- CITY CLERK)

Green said she wanted citizens to know that a cultural experience is being provided for the children in the Lawton area.

Ann Weisman, Arts & Humanities Director, said this opportunity is presented to local and area schools for the students to attend and experience professional theater in a professional performing arts center. She said the cost is fifty cents per student and the audiences are generally sold out, so every year, 3,000 students have this opportunity. Weisman said this is an excellent performing group, which also provides outstanding study guides to tie contemporary issues to this classic play.

MOVED by Green, SECOND by Shanklin, to approve the contract with Theaterworks USA to present the Swiss Family Robinson October 15, 1997. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

35. Consider approving Modifications P00037 to the Fort Sill water contract which establishes water rates for Fort Sill for FY 1996. EXHIBITS: PROPOSED LETTER TO CONTRACTING OFFICE WITH P00037 MODIFICATION.

Shanklin said the City will receive around \$100,000 and asked if that had been included in the budget. Livingston said he did not include the \$98,000 in the budget; last year was billed at 51 cents per thousand rate to Fort Sill and next year the billing will be reduced to 43 cents, which will take up some of that slack.

Shanklin said the City is a year behind in being paid. Livingston said Fort Sill is billed on an agreed rate based on a cost of a year ago, and then the contract shows that Fort Sill will pay the pro rata cost of treating and delivering water to Fort Sill. He said it is figured each year, and Lawton will receive \$98,000 but the billing will also be reduced.

Shanklin said this is the cost of water, and everyone has been told it was 90 cents or \$1.05; calculation of the water contract for Fort Sill takes in the amortization of investments, the treatment plant, operating expenses, plus 15% overhead costs, and the Waurika Project. He asked if that was Lawtons total cost or only that plant. Livingston said every cost associated with treating the water, Lawtonka, Ellsworth, and Waurika, is charged. Shanklin said the cost of the water is 51 cents and Fort Sill comes in to audit us. Livingston said the difference in cost being referred to here is this is the cost to treat water, we have another cost in terms of what water costs inside the City which includes a very expensive distribution system with pipes and towers. Livingston said the difference in going from 51 to 43 cents, the cost remains virtually the same at \$2.8 million both years, but the amount of water treated and produced was 5.59 billion gallons in FY 95, and increased to 6.53 billion in FY 96, and that accounts for why the cost per gallon dropped.

MOVED by Shanklin, SECOND by Green, to approve Item 35. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

38. Consider a new service contract with an H.V.A.C. equipment service company to provide maintenance and energy efficient operation services of H.V.A.C. equipment in the city buildings. EXHIBITS: LIST OF FACILITIES TO BE SERVED. (PROPOSALS ON FILE WITH PURCHASING DIVISION) Action:

Williams asked if information had been provided by the recommended and low vendor as to smoke detection at the Library. Dick Huck, Parks & Recreation Director, said all five proposers were asked during the interview stage about this subject and all five had the ability of adding the smoke detectors to the Library and other buildings. Huck said if Council approves the contract with Carrier, they will seek a firm bid as to the cost of the smoke detectors at the Library; estimated costs have been obtained and it should be well under the \$4,500 estimate.

Williams asked if the City leases the control systems in the buildings. Huck said they are leased as part of the contract; there was a debate three years ago between Johnson Controls and Natkin during the transition and Johnson removed

certain controls from the Library. Huck said the City does own some, but the main control boxes are owned by Natkin, and in turn, the new vendor will have to put their own systems in and deal with the automation of the four buildings. Williams asked if Natkin would remove controls and Carrier install theirs. Huck said yes, under the City's supervision so there will not be an issue of things being removed that should not have been.

Williams said he did not know if this selection format had been used before but it appeared to be a good idea and perhaps should be used on other large contracts also.

MOVED by Williams, SECOND by Green, to authorize the Mayor to execute the contract with Carrier Corporation for maintenance and operation of the City's HVAC Systems. AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

BUSINESS ITEM:

47. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the status of negotiations between the City and the International Union of Police Associations, Local 24, and a proposed resolution, and in open session consider approving a resolution adopting a personnel policy for pay and benefits for the commissioned officers of the Lawton Police Department. EXHIBITS: NONE.

48. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the status of negotiations between the City and the International Association of Firefighters, Local 1882, and a proposed resolution, and in open session consider approving a resolution adopting a personnel policy for pay and benefits for the uniform firefighters of the Lawton Fire Department. EXHIBITS: NONE.

ADDENDUM:

1. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a lawsuit styled Warner v. City of Lawton, Case No. CJ-96-402, and, in open session, appoint a person to represent the City at the Settlement Conference. EXHIBITS: NONE.

MOVED by Williams, SECOND by Warren, to convene in executive session as shown on the agenda. AYE: Shanklin, Beller, Green, Warren, Maples, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

The Mayor Pro Tem and City Council convened in executive session at 8:55 p.m. and reconvened in regular, open session at 9:30 p.m. with all members present upon roll call.

Cruz said on Item 47 relating to the police department contract issue, recommendation is to adopt a resolution rolling the present contract forward until the City and the police union reach a new agreement, or an impasse, and in the mean time, continue negotiation in good faith.

MOVED by Shanklin, SECOND by Williams, to adopt Resolution No. 97-84. AYE: Green, Warren, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-84

A RESOLUTION EXTENDING THE PROVISIONS OF THE FY 1996-1997 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF LAWTON, OKLAHOMA, AND THE INTERNATIONAL UNION OF POLICE ASSOCIATIONS, LOCAL 24, FROM JULY 1, 1997 TO A PERIOD CERTAIN, FOR FULL TIME COMMISSIONED MEMBERS OF THE CITY OF LAWTON POLICE DEPARTMENT EXCLUDING THE CHIEF OF POLICE AND THE ASSISTANT CHIEF OF POLICE.

Cruz reported on Item 48 relating to the firefighters, he recommended adoption of a resolution adopting personnel policies and procedures for the members of the fire department union covered by the contract which in effect covers all the pay and benefits that are currently in the contract until a new agreement is reached.

MOVED by Williams, SECOND by Shanklin, to adopt Resolution No. 97-85. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-85

A RESOLUTION ADOPTING CERTAIN PROVISIONS FROM THE FY 1996-1997 EMPLOYMENT AGREEMENT BETWEEN THE CITY OF LAWTON, AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 1882, FOR THE PERIOD JULY 1, 1997 THROUGH JUNE 30, 1998, OR UNTIL A SUCCESSOR AGREEMENT IS ENTERED INTO, WHICHEVER OCCURS FIRST, FOR THE ADMINISTRATION OF WAGES AND BENEFITS OF THE UNIFORM MEMBERS OF THE CITY OF LAWTON FIRE DEPARTMENT EXCLUDING THE FIRE CHIEF.

Cruz reported on the addendum item relating to Warner v. City of Lawton, he recommended that Maples be designated as the Council representative to the settlement conference.

MOVED by Purcell, SECOND by Williams, to designate Maples as the Council representative to the settlement conference. AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Schumpert said he would be out of town Friday, Saturday and Sunday and Steve Livingston would be acting City Manager during the period.

Williams said the initiative on the vacancy was an item that the Council felt was a pretty good deal. He suggested additional information be provided rather than the item being dropped. Shanklin said the City cannot give a 15% reward to units that are 97% occupied; it will have to be broken into sections and numbers due to different sizes. Shanklin said no one can be 100% sure on the vacancies, even though they try to be, due to the cycles. Williams asked if the general feeling was that something needed to be done but we did not know what. Schumpert said staff would return alternatives. Beller said he was concerned the public housing would be billed at 85% but had an occupancy of only 45%.

Purcell said some items in the consent agenda called for liquidated damages, and there have been other problems in that regard. He said he brought up an agenda item almost a year ago about looking at firms who are constantly over the time allowed and fined liquidated damages and excluding them from bidding. Purcell said he would bring it back if anyone was interested, and if not, he would not do so. He said 34th Street is way over the time limits.

Shanklin said that contractor would eliminate himself because he will not get paid. General consensus was to return the item to the agenda. Williams said Council has the control to award the bid without any disqualifying of contractors, and only one contractor bid on the police station work, so if contractors are eliminated, there may be a problem. Warren said if a bidder who does not perform is eliminated, it would not be a problem.

There was no further business and the meeting adjourned at 9:40 p.m.